



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/724,027

11/26/2003

Franklin C. Wong

AND541/4-010US/64000

7270

21586

7590

08/14/2006

VINSON & ELKINS, L.L.P.
1001 FANNIN STREET
2300 FIRST CITY TOWER
HOUSTON, TX 77002-6760

EXAMINER

JONES, DAMERON LEVEST

ART UNIT

PAPER NUMBER

1618

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/724,027	Applicant(s) WONG, FRANKLIN C.	
	Examiner D. L. Jones	Art Unit 1618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 and 45-51 is/are pending in the application.
- 4a) Of the above claim(s) 3, 5, 9, 13, 16, 17, and 45-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-8,10-12,14,15 and 18-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

ACKNOWLEDGMENTS

1. The Examiner acknowledges receipt of the amendment filed 5/8/06 wherein claims 1 and 21 are amended; and claims 24-44 and 52 are canceled.

Note: Claims 1-23 and 45-51 are pending.

RESPONSE TO APPLICANT'S ARGUMENTS/AMENDMENT

2. The Applicant's arguments and/or amendment filed 5/8/06 to the rejection of claims 1, 2, 4, 6-8, 10-12, 14, 15, and 18-23 made by the Examiner under 35 USC 103 have been fully considered and deemed non-persuasive for the reasons of record in the office action mailed 12/29/05 and those set forth below.

103 Rejection

The rejection of claims 1, 2, 4, 6-8, 10-12, 14, 15, and 18-23 under 25 USC 103(a) as being unpatentable over Brodack et al (US Patent No. 5,560,901) is MAINTAINED for reasons of record in the office action mailed 12/29/05 and those set forth below.

In summary, Applicant asserts that Brodack et al does not disclose particles comprising a coprecipitate of a metal and one or more radioactive isotopes

Applicant's arguments are non-persuasive for the reasons set forth below. Applicant's composition comprises particles that comprise a metal and one or more radioactive isotopes. The incorporation of the phrase 'a coprecipitate of' is more of a product-by-process type of limitation. In particular, a 'precipitate' is small particles that have settled out of a liquid or gaseous suspension by gravity, or that result from a

Art Unit: 1618

chemical reaction. Therefore, since the prior art discloses the product, the claim limitations are met.

WITHDRAWN CLAIMS

3. Claims 1, 3, 5, 9, 13, 16, 17, and 45-51 are withdrawn from further consideration by the Examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention/species.

COMMENTS/NOTES

4. Applicant is once again reminded that the election of species requirement is still maintained. Thus, Applicant's election of the species wherein the composition comprises yttrium-90, glass, particulates, and a cation as set forth in the response filed 9/26/05 is noted. Therefore, the search still has not been expanded beyond Applicant's elected species because the prior art still reads on the instant invention.

5. Applicant is once again respectfully requested to supply the year of publication of references C33 and C4 listed on the information disclosure statement filed 11/15/04 in the next correspondence to the Examiner.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

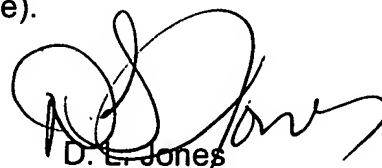
Art Unit: 1618

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. L. Jones whose telephone number is (571) 272-0617. The examiner can normally be reached on Mon.-Fri., 6:45 a.m. - 3:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


D. L. Jones
Primary Examiner
Art Unit 1618

August 7, 2006